

LOAN AGREEMENT

for

**CASA DEL MAESTRO APARTMENTS – PHASE II
(3445 - 3465 Lochinvar Ave)**

By and Between

**REDEVELOPMENT AGENCY OF
THE CITY OF SANTA CLARA, CALIFORNIA**

and

SANTA CLARA UNIFIED SCHOOL DISTRICT

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LOAN AGREEMENT

THIS LOAN AGREEMENT ("Agreement") is entered into by and between the REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA, ("Agency"), and the SANTA CLARA UNIFIED SCHOOL DISTRICT ("District") as of _____, 2008. Agency and District covenant and agree as follows:

PART 1 SUBJECT OF AGREEMENT

1.1 Purpose of the Agreement

The purpose of this Agreement is to implement the Redevelopment Plan for the Bayshore North Redevelopment Project (the "Redevelopment Plan") by providing a loan of funds from the Agency's Low and Moderate Income Housing Fund. The purpose of this Agreement is to increase and improve the supply of affordable Low Income housing within the City of Santa Clara ("City") by providing Agency financial assistance to District to pay a portion of the development costs for the construction of a thirty (30) unit rental housing development (the "Improvements") on property owned by District in the City of Santa Clara (hereinafter referred to as the "Property"), which District intends to rent to teachers. In consideration for Agency assistance, District agrees to rent twenty (20) apartment units (the "Restricted Units") exclusively to persons and families of Low Income at an affordable rent.

Agency and District previously entered into that certain Loan Agreement entered into as of October 12, 2004 pertaining to a twenty (20) unit rental housing development on the Property, as amended by that certain First Addendum to Loan Agreement, dated October 25, 2005, and entered into by Agency and District (collectively, the "Original Agreement"). Since that time, the project was expanded to the current size of thirty (30) units resulting in additional development costs. No funds were disbursed to District under the Original Agreement. Agency and District acknowledge and agree that, as of the date of this Agreement, the Original Agreement is hereby superseded in its entirety by this Agreement and the Original Agreement shall be of no further force and effect.

The construction of the Improvements pursuant to this Agreement, and the fulfillment generally of the Agreement, are in the vital and best interests of City and the health, safety, morals and welfare of its residents, and in accord with the public purposes and provisions of the applicable federal, state and local laws and requirements under which the project is to be undertaken and is being assisted.

1.2 The Redevelopment Plan

This Agreement is authorized by and made in furtherance of the redevelopment plan for the Bayshore North Redevelopment Project which was approved and adopted by the City Council of the City of Santa Clara on December 28, 1973 by Ordinance No. 1283.

1.3 The Project

The project (the "Project") consists of the construction of the Improvements on the Property. The Property is described in the Legal Description which is attached hereto as Attachment No. 1 and incorporated herein by this reference.

1.4 Agency

Agency is a public body, corporate and politic, exercising governmental functions and powers, and organized and existing under Chapter 2 of the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000 *et seq.*). The address of Agency for purposes of receiving notices pursuant to this Agreement is City Hall, 1500 Warburton Avenue, Santa Clara, California 95050. "Agency" as used in this Agreement includes the Redevelopment Agency of the City of Santa Clara, and any assignee of or successor to its rights, powers and responsibilities.

1.5 District

District is a public agency. The address of District for purposes of receiving notices pursuant to this Agreement is 1889 Lawrence Road, Santa Clara, California 95052. "District" as used in this Agreement includes the Santa Clara Unified School District, and any assignee of or successor to its rights, powers and responsibilities.

1.6 Prohibition Against Assignments

The qualifications and identity of District are of particular concern to City and Agency. It is because of those qualifications and that identity that Agency has entered into this Agreement with District. No voluntary or involuntary successor in interest of District shall acquire any rights or powers under this Agreement, except as expressly set forth herein. District shall not assign all or any part of this Agreement without the prior written approval of Agency.

1.7 Definitions

"Affordable Rent" for the Restricted Units shall mean rent, plus a reasonable allowance for utilities, in an amount that does not exceed 30% of 60% of the area median income, adjusted for family size appropriate for the unit.

"Agency Loan" shall mean the Loan in the amount of One Million Nine Hundred Twenty Thousand Nine Hundred Thirty-Three Dollars (\$1,920,933), to be made by Agency pursuant to the terms of this Agreement.

"Budget" or "Project Budget" shall mean the schedule of sources and uses of funds attached to this Agreement as Attachment No. 6 and incorporated herein by reference.

“Conditions” shall mean, with respect to the Property, the condition of the soil, geology, the presence of known or unknown faults or defects which would affect the suitability of the Property for their intended uses, or the condition of any related public improvements.

“Covenants” shall mean the Agreement Containing Covenants (Including Affordable Housing Restrictions) attached to this Agreement as Attachment No. 5 and incorporated herein by reference.

“Development Costs” shall mean the cost of construction of the Improvements by District, as set forth in the Project Budget attached to this Agreement as Attachment No. 6, as amended from time-to-time.

“Hazardous Substances” shall include, without limitation, any flammable explosives, radioactive materials, asbestos, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials.

“Improvements” shall mean the thirty (30) apartment units to be constructed on the Property, with all ancillary improvements relating thereto.

“Low Income” shall mean a household income that does not exceed eighty percent (80%) of the area median income.

PART 2 IMPROVEMENT OF THE PROPERTY

2.1 Schedule of Performance

District shall take the steps necessary to start and complete the construction of the Improvements within the times of performance set forth in the Schedule of Performance, attached hereto as Attachment No. 4 and incorporated herein by this reference. The Agency Executive Director, on behalf of Agency, shall grant reasonable extensions of any given date in the Schedule of Performance at District’s request.

2.2 Condition of the Property

2.2.1 In General

District has performed such investigations as District has deemed sufficient to determine that there are no Conditions which will result in a substantial adverse impact on the feasibility of constructing and operating the Improvements on the Property, as required by this Agreement.

2.2.2 Hazardous Substances

At the time of the execution of this Agreement, District is not aware of any Hazardous Substances on the Property. During the 55-year term of the Covenants (described in Section 3.1), District shall immediately notify the Agency of its discovery of any Hazardous Substances on the Property. In the event that any such Hazardous Substances are discovered, it shall be the sole

responsibility of District, its assigns, and successors in interest to undertake all remedial removal and other actions necessary to clean up all Hazardous Substances on or affecting the Property in accordance with all applicable federal, state, and local laws, regulations, rules and policies. Further, during the term of the Covenants, District shall provide to Agency, upon reasonable written request by Agency, District's representation substantially similar to the following:

a. To the best of District's knowledge, the Property is not in violation of any federal, state or local law, ordinance or regulation relating to environmental conditions on, under or about the Property, including, but not limited to, soil and groundwater conditions.

b. Neither District, nor any third parties (to the best of District's knowledge, after due inquiry and investigation), has used, generated, manufactured, refined, produced, processed, stored or disposed of on, under or about the Property or transported to or from the Property any Hazardous Substances nor does District intend to use the Property in the future for the purpose of generating, manufacturing, refining, producing, storing, handling, transferring, processing or transporting of Hazardous Substances.

2.3 Indemnification and Insurance

2.3.1 District's Indemnity

For the term of the Covenants, District agrees to, and shall, indemnify and hold Agency and City and their respective agents, servants, employees, officers, directors, and consultants harmless from and against all liability, loss, damage, costs, or expenses (including attorneys' fees and court costs) arising from or as a result of the death of any person or any accident, injury, loss and damage whatsoever caused to any person or to the property of any person which shall occur on or adjacent to the Property which shall be directly or indirectly caused by any acts done on the Property (to the extent not attributable to the gross negligence or willful misconduct of Agency) or any errors or omissions of District and its agents, servants, employees and contractors.

2.3.2 Hazardous Substances Indemnity

In addition, District shall defend, indemnify and hold harmless Agency, City and their respective officers, agents, employees, and consultants, from any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses (including, without limit, attorneys' and consultants' fees, investigation and laboratory fees, court costs, litigation expenses, and costs of any required clean up) of whatever kind or nature known or unknown, contingent or otherwise, arising out of or in any way related to the presence, disposal, release or threatened release of any Hazardous Substances in, on or under the Property.

2.3.3 Insurance

Prior to disbursement of the Agency Loan, District shall obtain, and furnish or cause to be furnished to the Agency Executive Director evidence of the following forms of insurance coverage, which District shall maintain as provided in this Section 2.3.3:

a. District shall procure and maintain in force at all times during the term of the Covenants, without cost to Agency, a policy or policies of fire and extended coverage insurance (all risk of physical loss) covering the Property, in an amount equal to one hundred percent (100%) of the full replacement cost (replacement cost new, using materials of a like quality and kind as existed immediately prior to the damage or destruction) of the Property. This insurance shall include endorsements for inflation, debris removal and demolition, building ordinance protection, and plate glass coverage with respect to the Property.

b. District shall also procure and maintain at all times during the term of the Covenants, without cost to Agency, commercial general liability insurance, insuring Agency and District against any liability arising out of the use, occupancy, or maintenance of the Property and all areas appurtenant thereto, including without limitation personal injury and death. Such insurance shall be in an amount not less than \$2,000,000 per occurrence, combined single limit subject to increase on the first year anniversary of the date of this Agreement and increased every one (1) year thereafter by the percentage increase, if any, in the Consumer Price Index - All Urban Consumers, San Francisco - Oakland - San Jose, published by the Bureau of Labor Statistics of the United States Department of Labor, or if such index ceases to be published, the most closely analogous substitute index. This policy shall include broad form contractual liability and indemnity coverage which shall insure performance by District of the indemnity and defense provisions set forth in this Agreement. The limits of said insurance shall not, however, be construed to limit the liability of District under this Agreement.

c. District shall also maintain or cause to be maintained workers' compensation insurance issued by an insurance carrier authorized under the laws of the State of California for workers' compensation and employer's liability under the Workers' Compensation Insurance and Safety Act now in force in California, or any act hereafter enacted as an amendment or supplement thereto or in lieu thereof. Such workers' compensation insurance shall cover all persons employed by District in connection with the Property, and shall cover full liability for compensation under any such act aforesaid, based upon death or bodily injury claims made by, for or on behalf of, any person incurring or suffering injury or death in connection with the Property, or the operation thereof by District.

d. All insurance which District is required to maintain hereunder shall be on an occurrence basis and shall be with financially responsible insurance companies licensed to do business in the State of California.

e. To the extent applicable, the insurance required pursuant to this Section shall: (1) name Agency, City, and their respective officers, employees, contractors and agents as additional insureds as their interests appear; (2) provide that the coverage thereof is primary and non-contributory coverage with respect to all additional insureds; (3) contain a Standard Cross Liability endorsement providing that the insurance applies separately to each insured against whom a claim is filed, and that the policy covers claims or suits by one insured against the other; and (4) provide that the interests and protections of the additional insureds shall not be affected by any misrepresentation, act or omission of a named insured or any breach by a named insured of any provision in the policy which would otherwise result in forfeiture or reduction of coverage.

f. Prior to disbursement of the Agency Loan, District shall deliver to Agency certificates of insurance evidencing the existence and amount of such insurance, and showing Agency (and the other parties designated above) as additional insureds on all policies. No policy shall be cancelable or subject to reduction of coverage or other modification except after thirty (30) days prior written notice to Agency by the insurer (or such shorter period of time for such notice as may be the commercial custom and practice in such policies). District shall, within twenty (20) days prior to the expiration of such policies, furnish Agency with renewals or binders, or Agency may order such insurance and charge the cost to District, which amount shall be payable by District upon demand. All such policies shall be written as primary policies, not contributing with and not in excess of coverage which Agency or the City may carry.

2.4 Local, State, and Federal Laws

a. District shall construct the Improvements and operate the Property in accordance with all applicable laws, including all applicable federal and state labor and wage laws and requirements.

b. District hereby expressly acknowledges and agrees that neither City nor Agency has ever previously affirmatively represented to the District or its contractor(s) for the Improvements in writing or otherwise, in a call for bids or otherwise, that the work to be covered by the bid or contract is not a "public work," as defined in Section 1720 of the California Labor Code. District hereby agrees that District shall have the obligation to provide any and all disclosures or identifications required by Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time, or any other similar law. District shall indemnify, protect, defend and hold harmless Agency, City and their respective officers, employees, contractors and agents, with counsel reasonably acceptable to Agency and City, from and against any and all loss, liability, damage, claim, cost, expense, and/or "increased costs" (including reasonable attorneys fees, court and litigation costs, and fees of expert witnesses) which, in connection with the development, construction (as defined by applicable law) and/or operation of the Improvements, including, without limitation, any and all public works (as defined by applicable law), results or arises in any way from any of the following: (1) the noncompliance by District of any applicable local, state and/or federal law, including, without limitation, any applicable federal and/or state labor laws (including, without limitation, the requirement to pay state prevailing wages); (2) the implementation of Section 1781 of the Labor Code, as the same may be enacted, adopted or amended from time to time, or any other similar law; and/or (3) failure by District to provide any required disclosure or identification as required by Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time, or any other similar law.

c. It is agreed by the parties that, in connection with the development, construction (as defined by applicable law) and operation of the Improvements on the Property, including, without limitation, any and all public works (as defined by applicable law), District shall bear all risks of payment or non-payment of state prevailing wages and/or the implementation of Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time, and/or any other similar law. "Increased costs" as used in this Section shall have the meaning ascribed to it in Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time.

d. The foregoing indemnity shall survive termination of this Agreement.

2.5 Rights of Access

During the term of the Covenants, representatives of Agency and the City of Santa Clara shall have the reasonable right of access to the Property without charges or fees, during normal business hours, for the purposes of this Agreement, including, but not limited to, the inspection of the Property.

2.6 Prohibition Against Transfer

2.6.1 General Prohibition

During the term of the Covenants, District shall not, except as expressly permitted by this Agreement, assign or attempt to assign this Agreement or any right herein, nor make any total or partial sale, transfer, conveyance or assignment of the whole or any part of the Property or the Improvements (including conversion to condominiums or conveyances for financing), without prior written approval of Agency. This prohibition does not apply to the leasing for occupancy of all or any part of the Improvements in accordance with the terms of this Agreement and the Covenants. In the absence of specific written agreement by Agency, no unauthorized sale, transfer, conveyance or assignment of the Property or portion thereof, or approval thereof by Agency, shall be deemed to relieve District or any other party from any obligations under this Agreement.

2.6.2 Restriction on Encumbrances

Notwithstanding Section 2.6.1, mortgages, deeds of trust, conveyances and leaseback, or any other form of conveyance required for financing are permitted for the purpose of securing loans of funds to be used for financing the expenditures necessary and appropriate to pay Development Costs under this Agreement. District shall notify Agency in advance of any mortgage, deed of trust, conveyances and leaseback, or other form of conveyance for financing if District proposes to enter into the same during the term of the Covenants. District shall not enter into any such conveyance for financing without the prior written approval of Agency. The words "mortgage" and "deed of trust" as used herein include all other appropriate modes of financing real estate acquisition, construction, and land development.

2.7 Right of Agency to Cure Default

In the event of a default or breach by District of any mortgage, deed of trust or other security interest with respect to the Property (or any portion thereof) during the term of the Covenants, Agency may cure the default prior to completion of any foreclosure. In such event, Agency shall be entitled to reimbursement from District of all costs and expenses incurred by Agency in curing the default.

2.8 Construction of the Improvements

2.8.1 District shall cause the construction to be performed in conformance with construction drawings approved by City in issuing a building permit for the Improvements.

2.8.2 District shall cause all work performed in connection with the Improvements to be performed in compliance with (a) all applicable laws, ordinances, rules and regulations of federal, state, county or municipal governments or agencies now in force or that may be enacted hereafter, and (b) all directions, rules and regulations of any fire marshall, health officer, building inspection, or other officer of every governmental agency now having or hereafter acquiring jurisdiction. The work shall proceed only after procurement of each permit, license, or other authorization that may be required by any governmental agency having jurisdiction, and District shall be responsible for the procurement and maintenance thereof, as may be required of District and all entities engaged in work on the Property.

2.8.3 All construction work and professional services shall be performed by persons or entities licensed or otherwise authorized to perform the applicable construction work or service in the State of California.

2.9 Equal Opportunity

During the construction of the Improvements, there shall be no discrimination on the basis of race, color, creed, religion, age, disability, sex, sexual orientation, marital status, national origin, or ancestry, in the hiring, firing, promoting, or demoting of any person engaged in the construction work.

2.10 Construction Responsibilities

2.10.1 It shall be the responsibility of District to coordinate and schedule the work to be performed so that commencement and completion of construction will take place in accordance with this Agreement. The cost of constructing the Improvements shall be borne by District. District shall be responsible for obtaining and complying with any condition relating to any and all permits which may be required by any governmental agency having jurisdiction over the work to be performed.

2.10.2 District shall be solely responsible for all aspects of District's conduct in connection with the Improvements, including (but not limited to) the quality and suitability of construction drawings, the supervision of construction work, and the qualifications, financial condition, and performance of all architects, engineers, contractors, subcontractors, suppliers, consultants, and property managers. Any review or inspection undertaken by Agency with reference to the Improvements is solely for the purpose of determining whether District is properly discharging its obligations to Agency, and should not be relied upon by District or by any third parties as a warranty or representation by Agency as to the quality of the design or construction of the Improvements.

PART 3 USE OF THE PROPERTY

3.1 Uses

3.1.1 District covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof, that District, such successors and such

assigns shall develop the Project on the Property and operate thirty (30) units of rental housing on the Property (including the twenty (20) Restricted Units), as provided in this Agreement and the Covenants, and devote the Property to the uses specified therefor in this Agreement and the Covenants. During the time in which the use restrictions remain in effect, District shall obtain Agency's prior written approval before substantially modifying any of the Improvements on the Property.

3.1.2 District covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof, that District, such successors and such assigns shall operate and maintain the Improvements, including the Restricted Units, in conformity with all applicable laws, keep the Property and such Improvements free from any accumulation of debris or waste materials, and maintain any landscaping in a healthy condition.

3.1.3 District covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof, that District, such successors and such assigns shall engage the services of a qualified and experienced third-party manager to operate and maintain the Improvements.

3.2 Obligation to Refrain from Discrimination

District covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof, that there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor shall the transferee itself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the Property.

3.3 Form of Nondiscrimination and Nonsegregation Clauses

District covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof, that District, its successors and assigns shall refrain from restricting the rental, sale or lease of the Property on the basis of the race, color, creed, religion, sex, sexual orientation, marital status, national origin or ancestry of any person. All deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

3.3.1 In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer,

use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

3.3.2 In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."

3.3.3 In contracts: "There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor shall the transferee itself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the land."

3.4 Effect and Duration of Covenants

District agrees to execute in recordable form the Covenants, which are attached hereto as Attachment No. 5, subjecting and burdening the Property with the covenants set forth in this Agreement as covenants running with the land. The Covenants shall be executed by District and Agency, and shall be recorded prior to and as condition precedent of disbursement of Agency Loan. In addition, District acknowledges and agrees that a Notice of Affordability Restrictions on Transfer of Property, substantially in the form attached hereto as Attachment No. 7 and incorporated herein by reference, shall be recorded against the Property concurrently with the Covenants in accordance with Health & Safety Code Section 33334.3(f)(3), as amended effective January 1, 2008. The covenants against discrimination described in Sections 3.2 and 3.3 shall remain in effect in perpetuity. The other covenants regarding use of the Property shall remain in effect for the longest feasible time but not less than 55 years from the date the last structure containing any Restricted Unit receives a final certificate of occupancy from the City.

3.5 Effect of Violation of the Terms and Provisions of this Agreement

Agency and City shall each be deemed a beneficiary of the terms and provisions of this Agreement and the covenants herein, both for and in its own right and for the purposes of protecting the interests of the community and other parties, public or private, for whose benefit this Agreement and the covenants running with the land have been provided. The Agreement and the Covenants shall run in favor of each Agency and City without regard to whether Agency or City has been, remains, or is an owner of any land or interest therein in the Property or in the development area. Agency and City shall each have the right if the Covenants are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and covenants are entitled.

PART 4 LOAN OF FUNDS BY AGENCY

4.1 Method of Financing

The total cost of developing the Property and the Improvements is the amount set forth in the Project Budget. The anticipated sources and uses of funds for the development of the Property are set forth in the Project Budget, which is attached to this Agreement as Attachment No. 6. Prior to the disbursement of the Agency Loan, District shall make such revisions to the Budget, if any, as necessary to reflect the then-current estimate of Development costs and the sources of funds to pay such costs, and submit such revised Budget to the Agency Executive Director for approval. The Agency Executive Director shall not approve any revised Budget unless the Budget demonstrates sufficient funds to pay all anticipated Development costs.

4.2 Loan Amount

In accordance with the terms and conditions set forth in this Agreement, Agency shall Loan to District and District shall accept, on the terms and conditions contained herein, the sum of One Million Nine Hundred Twenty Thousand Nine Hundred Thirty-Three Dollars (\$1,920,933).

4.3 Terms of Loan

4.3.1 The Agency Loan shall be used to pay part of the development costs of the Project. District shall have no obligation to repay the Agency Loan, as evidenced by the Promissory Note attached to this Agreement as Attachment No. 2 and incorporated herein by reference, except as set forth in the Promissory Note. The Agency Loan shall be secured by the Deed of Trust attached to this Agreement as Attachment No. 3 and incorporated herein by reference, which shall be recorded against the Property in a first priority lien position.

4.3.2 The limited obligation to repay the Agency Loan in accordance with paragraph 4.3.1 and as evidenced in the Promissory Note attached to this Agreement as Attachment No. 2, shall terminate upon the expiration of the Covenants.

4.4 Conditions Precedent to Disbursal of Agency Loan Funds

The following are conditions precedent to the disbursal of Agency Loan funds:

- (a) District shall deliver to Agency a final Project Budget, to the extent that the final budget varies from the Project Budget attached hereto as Attachment No. 6.
- (b) District shall deliver to Agency documentation of construction financing, including final construction loan documents, demonstrating to the reasonable satisfaction of the Agency Executive Director that the sum of available financing sources will be sufficient to pay all Development Costs;
- (c) District shall execute, notarize and deliver the Covenants in substantially the form attached hereto as Attachment No. 5, and the Covenants shall be recorded against the Property in second priority lien position following the Deed of Trust;
- (d) District shall deliver to the Agency proof of insurance coverage as provided in Section 2.3.3;
- (e) The District shall satisfy all conditions required by City for commencement of construction, including obtaining all permits and approvals required for the Improvements;
- (f) District shall execute and deliver the Promissory Note in substantially the form attached hereto as Attachment No. 2;
- (g) District shall execute, notarize and deliver the Deed of Trust in substantially the form attached hereto as Attachment No. 3, and the Deed of Trust shall have been recorded against the Property in first priority lien position; and
- (h) District shall not be in default under this Agreement.

4.5 Disbursal of Agency Loan Funds

Upon satisfaction of the conditions described in Section 4.4 and the closing of all of the sources of construction financing, Agency shall disburse the Agency Loan Funds for payment of development costs in accordance with procedures acceptable to the Agency Executive Director.

PART 5 DEFAULTS, REMEDIES AND TERMINATION

5.1 Defaults - General

5.1.1 Subject to the extensions of time set forth in Section 6.5, and subject to the further provisions of this Section 5.1, failure or delay by either party to perform any term or

provision of this Agreement or the Covenants to be performed by such party constitutes a default hereunder.

5.1.2 The injured party shall give written notice of default to the party in default, specifying the default complained of by the injured party. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

5.1.3 Any failures or delays by the injured party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by the injured party in asserting any of its rights and remedies shall not deprive the injured party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

5.1.4 If an event of default occurs under the terms of this Agreement, prior to exercising any remedies hereunder, the injured party shall give the party in default notice of such default. If the default is reasonably capable of being cured within thirty (30) days, the party in default shall have such period to effect a cure prior to exercise of remedies by the injured party. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and the party in default (i) initiates corrective action within said period, and (ii) diligently and in good faith works to effect a cure as soon as possible, then the party in default shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by injured party. In no event shall injured party be precluded from exercising remedies if the default is not cured within ninety (90) days after the notice of default is first given.

5.2 Institution of Legal Actions

In addition to any other rights or remedies, either party may institute legal actions to cure, correct, or remedy any default to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Agreement. Such legal actions must be instituted in the Superior Court of the County of Santa Clara, State of California, in any other appropriate court in that County, or in the United States District Court for the Northern District of California.

5.3 Applicable Law

The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

5.4 Acceptance of Service of Process

5.4.1 In the event that any legal action is commenced by District against Agency, service of process on Agency shall be made by personal service upon the Executive Director or Chairman of Agency, or in such other manner as may be provided by law.

5.4.2 In the event that any legal action is commenced by Agency against District, service of process on District shall be made by personal service upon an officer of District, or in such manner as may be provided by law, and shall be valid whether made within or without the State of California.

5.5 Rights and Remedies are Cumulative

The rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

5.6 Damages

If either party defaults with regard to any of the provisions of this Agreement, and the default is not cured after the applicable notice and cure period as set forth in Section 5.1, the defaulting party shall be liable to the other party for damages caused by such default.

5.7 Specific Performance

If either party defaults under any of the provisions of this Agreement, and the default is not cured after the applicable notice and cure period as set forth in Section 5.1, the nondefaulting party, at its option, may institute an action for specific performance of the terms of this Agreement.

5.8 Termination

5.8.1 Agency, at its option, may terminate this Agreement in the event of any of the following:

- a. Failure by District to satisfy the conditions precedent to disbursement of the Agency Loan within the time established therefor in the Schedule of Performance;
- b. Any assignment of this Agreement or transfer of the Property without the prior written approval of Agency; or
- c. Any uncured default under this Agreement or the Covenants.

5.8.2 District, at its option, may terminate this Agreement in the event Agency fails to disburse the Agency Loan upon satisfaction of all conditions precedent.

PART 6 GENERAL PROVISIONS

6.1 Notices

Any formal notice, demand, or communication between Agency and District that is transmitted by electronic facsimile transmission followed by delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice of default that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt; and any notice of default that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof. Any such notice, demand, or communication shall be sent to the principal offices of Agency and District as designated in Sections 1.4 and 1.5 hereof. Such written notices, demands, and communications may be sent in the same

manner to such other addresses as either party may from time to time designate as provided in this Section 6.1.

6.2 Conflict of Interests

No member, official or employee of Agency or District shall have any personal interest, direct or indirect, in this Agreement nor shall any such member, official or employee participate in any decision relating to the Agreement which affects his or her personal interests or the interests of any corporation, partnership or association in which he or she is directly or indirectly interested.

6.3 Warranty Against Payment of Consideration for Agreement

The District warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement.

6.4 Nonliability of Officials and Employees

No member, official, or employee of Agency or District shall be personally liable in the event of any default or breach or for any amount which may become due or on any obligations under the terms of this Agreement.

6.5 Enforced Delay: Extension of Time of Performance

Notwithstanding specific provisions of this Agreement, performance of non-monetary obligations by either party shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation including litigation challenging the validity of this transaction or any element thereof; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor, or suppliers; acts of the other party; acts or failure to act of City or any other public or governmental agency or entity (except that acts or failure to act by either party shall not excuse performance by that party); or any other causes beyond the control or without the fault of the party claiming an extension of time to perform. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of the commencement of the cause. Times of performance under this Agreement may also be extended in writing by Agency and District.

6.6 Inspection of Books and Records

Agency or its designee has the right at all reasonable times to inspect the books, records, and/or other documents of District pertaining to the Property as pertinent to the purposes of this Agreement.

6.7 Approvals

Except as otherwise specifically provided in this Agreement, approvals required of Agency or District shall not be unreasonably withheld and approval or disapproval shall be given within the time set forth in this Agreement, if no time is given, within a reasonable time.

6.8 Authorized Representatives

Unless otherwise specified or the context requires otherwise, all references in this Agreement and its attachments to Agency or District shall mean the Executive Director or any officer or employee of such agency to whom the Executive Director or the governing body has delegated authority to perform, carry out and/or enforce this Agreement.

PART 7 ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

7.1 This Agreement shall be executed in two (2) duplicate originals, each of which is deemed to be an original. This Agreement constitutes the entire understanding and agreement of the parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the Property. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of Agency and District, and all amendments hereto must be in writing and signed by the appropriate authorities of Agency and District.

PART 8 TIME FOR ACCEPTANCE OF AGREEMENT BY AGENCY

This Agreement does not take effect until executed by Agency. This Agreement, when executed by District and delivered to Agency, must be authorized, executed and delivered by Agency within thirty (30) days after the date of signature by District, or this Agreement may be terminated by District on written notice to Agency. Upon the execution of this Agreement by both parties, the date of this Agreement shall be the date first stated above.

REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA, CALIFORNIA

Date: _____

By: _____
Jennifer Sparacino
Executive Director

ATTEST:

By: _____
Rod Diridon, Jr.
Secretary

APPROVED AS TO FORM:
HELENE LEICHTER,
Agency General Counsel

By: _____

KANE, BALLMER & BERKMAN
Agency Special Counsel

By: Frederick M. Ballmer

SANTA CLARA UNIFIED SCHOOL
DISTRICT

Date: 7/24/08

By: Steve Stavis
Name: Steve Stavis
Superintendent

ATTACHMENT NO. 1

LEGAL DESCRIPTION

REAL PROPERTY SITUATED IN THE CITY OF SANTA CLARA, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

A PORTION OF PARCEL 1, AS SHOWN ON THAT CERTAIN PARCEL MAP FILED JULY 30, 1985 IN BOOK 547 OF MAPS, AT PAGES 1 AND 2 IN THE OFFICE OF SANTA CLARA COUNTY RECORDER, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF THE ABOVE-MENTIONED PARCEL 1 (547 PM 1), SAID POINT ALSO BEING ON THE NORTHERN RIGHT-OF-WAY LINE OF LOCHINVAR AVENUE (60.00 FEET IN WIDTH), AS SAID AVENUE IS SHOWN ON SAID PARCEL MAP (547 PM 1), THENCE FROM SAID POINT OF BEGINNING ALONG THE WESTERN EXTERIOR BOUNDARY LINE OF SAID PARCEL 1 NORTH 00°30'06" WEST 256.34 FEET; THENCE LEAVING THE LAST MENTIONED LINE NORTH 89°57'00" EAST, 365.04 FEET; THENCE SOUTH 00°30'00" EAST, 258.33 FEET TO A POINT ON SAID NORTHERN LINE OF LOCHINVAR AVENUE; THENCE ALONG THE LAST MENTIONED LINE SOUTH 89°57'00" WEST, 363.00 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 94,036 SQ.FT. (2.16 ACRES) MORE OR LESS.

ATTACHMENT NO. 2

PROMISSORY NOTE

[BEHIND THIS PAGE]

PROMISSORY NOTE SECURED BY DEED OF TRUST
TO THE REDEVELOPMENT AGENCY OF
THE CITY OF SANTA CLARA, CALIFORNIA
(CASA DEL MAESTRO APARTMENTS – Phase II)

0% Interest
\$1,920,933

Santa Clara, California
_____, 2008

FOR VALUE RECEIVED, SANTA CLARA UNIFIED SCHOOL DISTRICT (“District”), hereby promises to pay to THE REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA, CALIFORNIA (“Agency”), a public body, corporate and politic, or order, a principal amount of ONE MILLION NINE HUNDRED TWENTY THOUSAND NINE HUNDRED THIRTY-THREE DOLLARS (\$1,920,933) or so much thereof as may be advanced by Agency to District pursuant to the Loan Agreement dated _____, 2008 (the “Loan Agreement”) between District and Agency. The obligation of District to Agency hereunder is subject to the terms of the Loan Agreement, this Note, an Agreement Containing Covenants (Including Affordable Housing Restrictions) dated on or about the date hereof, and a Deed of Trust dated on or about the date hereof and given by District to Agency for the purpose of securing this Note (the “Agency Deed of Trust”). Said documents are public records on file in the offices of Agency, and the provisions of said documents are incorporated herein by this reference.

1. Definitions. Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the Loan Agreement. In addition, the following terms shall have the following meanings:

“Agency Loan” shall mean the advance by Agency to District, in a principal amount not to exceed the face amount of this Note, to be used to pay a portion of the Development Costs, which is evidenced by this Note.

“Closing” shall mean the date when all conditions precedent to the disbursal of the Agency Loan (as set forth in Section 4.4 of the Loan Agreement) have been satisfied..

“Improvements” shall mean the thirty (30) unit multifamily housing project to be constructed on the Property in accordance with the Loan Agreement.

“Property” shall mean the real property described as the “Property” in and legally described as set forth in Exhibit A of the Agency Deed of Trust.

“Transfer” shall have the meaning set forth in Section 6 of this Note.

2. This Note evidences the obligation of District to Agency for the repayment of the Agency Loan, which is to assist District in constructing the Improvements upon the Property.

3. This Note is payable at the principal office of Agency, 1500 Warburton Avenue, Santa Clara, California 95050, or at such other place as the holder hereof may inform District in writing, in lawful money of the United States.

4. This Note shall be secured by the Agency Deed of Trust recorded against the Property in first priority lien position.

5. District shall not be required to make any payment to Agency in respect of Agency Loan, other than as provided in this Section 5. The Agency Loan shall bear no interest and shall be repayable as follows:

- (a) The entire principal amount of the indebtedness evidenced by this Promissory Note shall be due and payable upon the occurrence of any of the following (each an "Event of Default"):
 - (1) Upon the sale, transfer, assignment or other conveyance by District of the Property, or any portion thereof or interest therein, unless pre-approved in writing by Agency; or
 - (2) If District defaults under this Note, the Loan Agreement and/or the Agreement Containing Covenants and if such default is not cured within thirty (30) days after notice.

Unless the Agency Loan is due and payable as provided above, the entire amount of the Agency Loan shall be forgiven on the date that is fifty-five (55) years after the date on which the last structure containing any Restricted Unit is issued a final certificate of occupancy by the City of Santa Clara.

6. (a) Prior to the repayment in full of the Agency Loan, District shall not assign or attempt to make any total or partial sale, transfer, conveyance or assignment of the whole or any part of the Property, the Improvements thereon, or any portion thereof or interest therein (referred to hereinafter as a "Transfer"), without prior written approval of Agency, except as expressly permitted by this Note. Consent to one such transaction shall not be deemed to be a waiver of the right to require consent to future or successive transactions. Agency may grant or deny such consent in its sole discretion and, if consent should be given, any such transfer shall be subject to this Section 6, and any such transferee shall assume all obligations hereunder and agree to be bound by all provisions contained herein.

(b) Any such proposed transferee shall have the qualifications and financial responsibility necessary and adequate as may be reasonably determined by Agency, to fulfill the obligations undertaken in this Note by District. Any such proposed transferee, by instrument in writing satisfactory to Agency and in form recordable among the land records, for itself and its successors and assigns, and for the benefit of Agency shall expressly assume all of the obligations of District under this Note and agree to be subject to all conditions and restrictions applicable to District

in this Note. There shall be submitted to Agency for review all instruments and other legal documents proposed to effect any such transfer; and if approved by Agency its approval shall be indicated to District in writing.

(c) In the absence of specific written agreement by Agency, no unauthorized Transfer, or approval thereof by Agency, shall be deemed to relieve District or any other party from any obligations under this Note.

(d) In the event of a Transfer prior to the time Agency Loan is paid in full without the prior written consent of the Agency, in addition to any other right or remedy Agency may have at law or in equity, the net proceeds of such Transfer shall be paid to Agency to reduce the principal amount owed.

(e) As used herein, "Transfer" includes the sale, agreement to sell, transfer or conveyance of the Property, the Improvements, or any portion thereof or interest therein, whether voluntary, involuntary, by operation of law or otherwise, the execution of any installment land sale contract or similar instrument affecting all or a portion of the Property or Improvements, or the lease of all or substantially all of the Property or Improvements (except leases of apartments for occupancy).

7. Agency funds advanced or to be advanced hereunder are provided by Agency's Low and Moderate Income Housing Trust Fund. Accordingly, District agrees for itself, its successors and assigns, that the use of the Property shall be subject to the restrictions on rent and occupancy set forth in the Loan Agreement and in the Agreement Containing Covenants.

8. District waives presentment for payment, demand, protest, and notices of dishonor and of protest; the benefits of all waivable exemptions; and all defenses and pleas on the ground of any extension or extensions of the time of payment or of any due date under this Note, in whole or in part, whether before or after maturity and with or without notice. District hereby agrees to pay all costs and expenses, including reasonable attorneys' fees, which may be incurred by the holder hereof, in the enforcement of this Note, the Agency Deed of Trust or any term or provision of either thereof.

9. Upon the failure of District to perform or observe any other term or provision of this Note, or upon the occurrence of any event of default under the terms of the Agency Deed of Trust, the Loan Agreement or the Agreement Containing Covenants, the holder may exercise its rights or remedies hereunder or thereunder.

10. (a) Subject to the extensions of time set forth in Section 11, and subject to the further provisions of this Section 10, failure or delay by District to perform any material term or provision of this Note, the Agency Deed of Trust, the Loan Agreement or the Agreement Containing Covenants constitutes a default under this Note.

(b) Agency shall give written notice of default to District, specifying the default complained of by Agency. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

(c) Any failures or delays by Agency in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by Agency in asserting any of its rights and remedies shall not deprive Agency of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

(d) If a monetary event of default occurs under the terms of this Note, prior to exercising any remedies hereunder, Agency shall give District written notice of such default. District shall have a reasonable period of time after such notice is given within which to cure the default prior to exercise of remedies by Agency under this Note. In no event shall Agency be precluded from exercising remedies if its security becomes or is about to become materially impaired by any failure to cure a default or the default is not cured within ten (10) calendar days after the notice of default is received or deemed received.

(e) If a non-monetary event of default occurs under the terms of this Note, prior to exercising any remedies hereunder, Agency shall give District notice of such default. If the default is reasonably capable of being cured within thirty (30) calendar days after such notice is received or deemed received, District shall have such period to effect a cure prior to exercise of remedies by the Agency under this Note. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and District (i) initiates corrective action within said period, and (ii) diligently and in good faith works to effect a cure as soon as possible, then District shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by Agency. In no event shall Agency be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within ninety (90) days after the notice of default is received or deemed received.

(f) If an event of default occurs under the terms of the Agency Deed of Trust, the Loan Agreement or the Agreement Containing Covenants and is not cured within the applicable cure period set forth therein, prior to exercising any remedies hereunder, Agency shall give District notice of such default. No additional cure period shall be provided herein for such uncured defaults.

(g) Any notice of default that is transmitted by electronic facsimile transmission followed by delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice of default that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt by District; and any notice of default that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof.

11. Notwithstanding specific provisions of this Note, performance of non-monetary obligations by either party shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation including litigation challenging the validity of this transaction or any element thereof; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor, or suppliers; acts of the other party; acts or failure to act of the City of Santa Clara or any other public or governmental agency or entity (except that acts or failure to act by either party shall not excuse performance by that party); or any other causes beyond the control or without the fault of the party claiming an extension of time to perform. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of the commencement of the cause. Times of performance under this Note may also be extended in writing by the Agency and the District.

12. If the rights created by this Note shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described herein, the remaining obligations shall be completely performed and paid.

13. The Agency Deed of Trust securing this Note shall be senior to any other encumbrance on the Property, except to the extent specifically approved in writing by the Agency.

14. The address of the District for purposes of receiving notices pursuant to this Agreement is 1889 Lawrence Road, P.O. Box 397, Santa Clara, California 95052.

IN WITNESS WHEREOF District has executed this Note as of the day and year set forth above.

SANTA CLARA UNIFIED SCHOOL DISTRICT

Date: _____

By: _____
Name: Steve Stavis
Superintendent

ATTACHMENT NO. 3

DEED OF TRUST

[BEHIND THIS PAGE]

OFFICIAL BUSINESS

Document entitled to free
recording per Government
Code Section 6103

Recording Requested By and
When Recorded Mail To:

THE REDEVELOPMENT AGENCY
OF THE CITY OF SANTA CLARA, CALIFORNIA
1500 Warburton Avenue
Santa Clara, California 95050
Attention: Jennifer Sparacino

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**DEED OF TRUST
With Assignment of Rents**

THIS DEED OF TRUST is made as of _____, 2008, by and between SANTA CLARA UNIFIED SCHOOL DISTRICT ("Trustor"), _____ (Trustee), and THE REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA, CALIFORNIA, a public body, corporate and politic ("Beneficiary").

Witnesseth: That Trustor IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS to Trustee, its successors and assigns, in Trust, with POWER OF SALE TOGETHER WITH RIGHT OF ENTRY AND POSSESSION the following property (the "Trust Estate"):

(a) All of that certain real property in the City of Santa Clara, County of Santa Clara, State of California more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof (such real property is hereafter referred to as the "Subject Property");

(b) All buildings, structures and other Improvements now or in the future located or to be constructed on the Subject Property (the "Improvements");

(c) All tenements, hereditaments, appurtenances, privileges, franchises and other rights and interests now or in the future benefiting or otherwise relating to the Subject Property or the Improvements, including easements, rights-of-way and development rights (the "Appurtenances"). (The Appurtenances, together with the Subject Property and the Improvements, are hereafter referred to as the "Real Property");

(e) Subject to the assignment to Beneficiary set forth in Paragraph 4 below, all rents, issues, income, revenues, royalties and profits now or in the future payable with respect to or otherwise derived from the Trust Estate or the ownership, use, management, operation leasing or occupancy of the Trust Estate, including those past due and unpaid (the "Rents");

(f) All present and future right, title and interest of Trustor in and to all inventory, equipment, fixtures and other goods (as those terms are defined in Division 9 of the California Uniform Commercial Code (the "UCC"), and whether existing now or in the future) now or in the future located at, upon or about, or affixed or attached to or installed in, the Real Property, or used or to be used in connection with or otherwise relating to the Real Property or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing or occupancy of the Real Property, including furniture, furnishings, machinery, appliances, building materials and supplies, generators, boilers, furnaces, water tanks, heating ventilating and air conditioning equipment and all other types of tangible personal property of any kind or nature, and all accessories, additions, attachments, parts, proceeds, products, repairs, replacements and substitutions of or to any of such property (the "Goods," and together with the Real Property, the "Property"); and

(g) All present and future right, title and interest of Trustor in and to all accounts, general intangibles, chattel paper, deposit accounts, money, instruments and documents (as those terms are defined in the UCC) and all other agreements, obligations, rights and written material (in each case whether existing now or in the future) now or in the future relating to or otherwise arising in connection with or derived from the Property or any other part of the Trust Estate or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing, occupancy, sale or financing of the property or any other part of the Trust Estate, including (to the extent applicable to the Property or any other portion of the Trust Estate) (i) permits, approvals and other governmental authorizations, (ii) improvement plans and specifications and architectural drawings, (iii) agreements with contractors, subcontractors, suppliers, project managers, supervisors, designers, architects, engineers, sales agents, leasing agents, consultants and property managers, (iv) takeout, refinancing and permanent loan commitments, (v) warranties, guaranties, indemnities and insurance policies, together with insurance payments and unearned insurance premiums, (vi) claims, demands, awards, settlements, and other payments arising or resulting from or otherwise relating to any insurance or any loss or destruction of, injury or damage to, trespass on or taking, condemnation (or conveyance in lieu of condemnation) or public use of any of the Property, (vii) license agreements, service and maintenance agreements, purchase and sale agreements and purchase options, together with advance payments, security deposits and other amounts paid to or deposited with Trustor under any such agreements, (viii) reserves, deposits, bonds, deferred payments, refunds, rebates, discounts, cost savings, escrow proceeds, sale proceeds and other rights to the payment of money, trade names, trademarks, goodwill and all other types on intangible personal property of any kind or nature, and (ix) all supplements, modifications, amendments, renewals, extensions, proceeds, replacements and substitutions of or to any of such property (the "Intangibles").

Trustor further grants to Trustee and Beneficiary, pursuant to the UCC, a security interest in all present and future right, title and interest of Trustor in and to all Goods and Intangibles and all of the Trust Estate described above in which a security interest may be created under the UCC (collectively, the "Personal Property"). This Deed of Trust constitutes a security agreement under the UCC, conveying a security interest in the Personal Property to Trustee and Beneficiary. Trustee and Beneficiary shall have, in addition to all rights and remedies provided herein, all the rights and remedies of a "secured party" under the UCC and other applicable California law. Trustor covenants and agrees that this Deed of Trust constitutes a fixture filing under Section 9313 and 9402(6) of the UCC.

FOR THE PURPOSE OF SECURING, in such order of priority as Beneficiary may elect, the following: (1) due, prompt and complete observance, performance and discharge of each and every condition, obligation, covenant and agreement contained herein or contained in a promissory note executed by Trustor ("District" therein) on or about the date hereof (the "Note"), the Loan Agreement dated as of _____, 2008 (the "Loan Agreement") between Trustor ("District" therein) and Beneficiary ("Agency" therein), and the Agreement Containing Covenants (Including Affordable Housing Restrictions) dated on or about the date hereof (the "Covenants") between Trustor ("District" therein) and Beneficiary ("Agency" therein); and (2) payment of indebtedness of Trustor to the Beneficiary in the principal sum of ONE MILLION NINE HUNDRED TWENTY THOUSAND NINE HUNDRED THIRTY-THREE DOLLARS (\$1,920,933), evidenced by the Note. The Note, Loan Agreement and Covenants (collectively "Secured Obligations") and all of their terms are incorporated herein by reference and this conveyance shall secure any and all extensions, amendments, modifications or renewals thereof however evidenced, and additional advances evidenced by any note reciting that it is secured hereby.

AND TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR COVENANTS AND AGREES:

1. That Trustor shall pay the Note at the time and in the manner provided therein, and perform the obligations of the Trustor as set forth in the Secured Obligations at the time and in the manner respectively provided therein.
2. That Trustor shall not permit or suffer the use of any of the Property for any purpose other than the use for which the same was intended at the time this Deed of Trust was executed.
3. That the Secured Obligations are incorporated in and made a part of this Deed of Trust. Upon default of a Secured Obligation, and after the giving of notice and the expiration of any applicable cure period, the Beneficiary, at its option, may declare the whole of the indebtedness secured hereby to be due and payable.
4. That all rents, profits and income from the property covered by this Deed of Trust are hereby assigned to the Beneficiary for the purpose of discharging the debt hereby secured.

Permission is hereby given to Trustor so long as no default exists hereunder after the giving of notice and the expiration of any applicable cure period, to collect such rents, profits and income for use in accordance with the provisions of the Secured Obligations.

5. That upon default hereunder or under the aforementioned agreements, and after the giving of notice and the expiration of any applicable cure period, Beneficiary shall be entitled to the appointment of a receiver by any court having jurisdiction, without notice, to take possession and protect the property described herein and operate same and collect the rents, profits and income therefrom;

6. That Trustor will keep the Improvements now existing or hereafter erected on the property insured against loss by fire and such other hazards, casualties, and contingencies as may reasonably be required in writing from time to time by the Beneficiary, and all such insurance shall be evidenced by standard fire and extended coverage insurance policy or policies. In no event shall the amounts of coverage be less than 100 percent of the insurable value of the Property. Such policies shall be endorsed with standard mortgage clause with loss payable to the Beneficiary and certificates thereof together with copies of original policies shall be deposited with the Beneficiary.

7. To pay, at least 10 days before delinquency, any taxes and assessments affecting said Property; to pay, when due, all encumbrances, charges and liens, with interest, on said Property or any part thereof which appear to be prior or superior hereto; and to pay all costs, fees, and expenses of this Trust. Notwithstanding anything to the contrary contained in this Deed of Trust, Trustor shall not be required to pay and discharge any such tax, assessment, charge or levy so long as Trustor is contesting the legality thereof in good faith and by appropriate proceedings, and Trustor has adequate funds to pay any liabilities contested pursuant to this Section 7.

8. To keep said Property in good condition and repair, subject to ordinary wear and tear, casualty and condemnation, not to remove or demolish any buildings thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged, or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws affecting said property or requiring any alterations or Improvements to be made thereon (subject to Trustor's right to contest the validity or applicability of laws or regulations); not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law and/or covenants, conditions and/or restrictions affecting said property; not to permit or suffer any material alteration of or addition to the buildings or Improvements hereafter constructed in or upon said property without the consent of the Beneficiary.

9. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and to pay all costs and expenses, including cost of evidence of title and reasonable attorneys' fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear.

10. Should Trustor fail, after the giving of notice and the expiration of any applicable cure period, to make any payment or do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof. Following default, after the giving of notice and the expiration of any applicable cure period, Beneficiary or Trustee being authorized to enter upon said property for such purposes, may commence, appear in and/or defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; may pay, purchase, contest, or compromise any encumbrance, charge, or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, may pay necessary expenses, employ counsel, and pay his reasonable fees.

11. Beneficiary shall have the right to pay fire and other property insurance premiums when due should Trustor fail to make any required premium payments. All such payments made by the Beneficiary shall be added to the principal sum secured hereby.

12. To pay immediately and without demand all sums so expended by Beneficiary or Trustee, under permission given under this Deed of Trust, with interest from date of expenditure, at the highest rate of interest permitted by law.

13. That the funds to be advanced hereunder are to be used in accordance with the Secured Obligations; and upon the failure of Trustor, after the giving of notice and the expiration of any applicable cure period, to keep and perform all the covenants, conditions, and agreements of said Secured Obligations, the principal sum and other charges provided for in the Note shall at the option of the Beneficiary of this Deed of Trust become due and payable, anything contained herein to the contrary notwithstanding.

14. Trustor further covenants that it will not voluntarily create, suffer, or permit to be created against the Property subject to this Deed of Trust any lien or liens except as authorized by Beneficiary and further that it will keep and maintain the property free from the claims of all persons supplying labor or materials which will enter into the construction of any and all buildings now being erected or to be erected on said premises. Notwithstanding anything to the contrary contained in this Deed of Trust, Trustor shall not be obligated to pay any claims for labor, materials or services which Trustor in good faith disputes and is diligently contesting, provided that, except as otherwise agreed by Beneficiary, Trustor shall, at Beneficiary's written request, within thirty (30) days after the filing of any claim or lien (but in any event, and without any requirement that Beneficiary must first provide a written request, prior to foreclosure) record in the Office of the Recorder of Santa Clara County, a surety bond in an amount one-and-one-half (1 ½) times the amount of such claim item to protect against a claim of lien, or provide such other security reasonably satisfactory to Beneficiary.

15. That any and all Improvements made or about to be made upon the Property covered by this Deed of Trust, and all plans and specifications, comply with all applicable municipal ordinances and regulations and all other applicable regulations made or promulgated, now or

hereafter, by lawful authority, and that the same will upon completion comply with all such municipal ordinances and regulations and with the rules of the applicable fire rating or inspection organization, bureau, association or office.

16. Trustor herein agrees to pay to Beneficiary or to the authorized loan servicing representative of the Beneficiary a reasonable charge for providing a statement regarding the obligation secured by this Deed of Trust as provided by Section 2954, Article 2, Chapter 2 Title 14, Division 3, of the California Civil Code.

IT IS MUTUALLY AGREED THAT:

17. Should the Property or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or damaged by fire, or earthquake, or in any other manner, Beneficiary shall be entitled to all compensation, awards, and other payments or relief therefor which are not used to reconstruct, restore or otherwise improve the Property or part thereof that was taken or damaged, and shall be entitled at its option to commence, appear in and prosecute in its own name, any action or proceedings, or to make any compromise or settlement, in connection with such taking or damage. All such compensation, awards, damages, rights of action and proceeds which are not used to reconstruct, restore or otherwise improve the Property or part thereof that was taken or damaged, including the proceeds of any policies of fire and other insurance affecting the Property, are hereby assigned to Beneficiary. After deducting therefrom all its expenses, including attorneys' fees, the balance of the proceeds which are not used to reconstruct, restore or otherwise improve the Property or part thereof that was taken or damaged, shall be applied to the amount due under the Note secured hereby. No amount applied to the reduction of the principal shall relieve the Trustor from making payments as required by the Note.

18. Upon default by Trustor under this Deed of Trust, after the giving of notice and the expiration of any applicable cure period, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale, and of written notice of default and of election to cause the property to be sold, which notice Trustee shall cause to be duly filed for record and Beneficiary may foreclose this Deed of Trust. Beneficiary shall also deposit with Trustee this Deed of Trust, the Note and all documents evidencing expenditures secured hereby.

19. After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at the time and place of sale, and from time to time thereafter may postpone the sale by public announcement at the time and place of sale, and from time to time thereafter may postpone the sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to the

purchaser its Deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the Deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee or Beneficiary, may purchase at the sale. The Trustee shall apply the proceeds of sale to payment of (1) the expenses of such sale, together with the reasonable expenses of this trust including therein reasonable Trustee's fees or attorneys' fees for conducting the sale, and the actual cost of publishing, recording, mailing and posting notice of the sale; (2) the cost of any search and/or other evidence of title procured in connection with such sale and revenue stamps on Trustee's Deed; (3) all sums expended under the terms hereof, not then repaid, with accrued interest at the rate specified in the Note; (4) all other sums then secured hereby; and (5) the remainder, if any, to the person or persons legally entitled thereto.

20. Beneficiary may from time to time substitute a successor or successors to any Trustee named herein or acting hereunder to execute this Trust. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers, and duties conferred upon any Trustee herein named or acting hereunder. Each such appointment and substitution shall be made by written instrument executed by Beneficiary, containing reference to this Deed of Trust and its place of record, which, when duly recorded in the proper office of the county or counties in which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.

21. The pleading of any statute of limitations as a defense to any and all obligations secured by this Deed of Trust is hereby waived to the full extent permissible by law.

22. Upon written request of Beneficiary stating that all sums secured hereby have been paid and all obligations secured hereby have been satisfied, and upon surrender of this Deed of Trust and the Note to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or fact shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto".

23. The trust created hereby is irrevocable by Trustor.

24. This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors, and assigns. The term "Beneficiary" shall include not only the original Beneficiary hereunder but also any future owner and holder including pledgees, of the Note secured hereby. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. All obligations of Trustor hereunder are joint and several.

25. Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made public record as provided by law. Except as otherwise provided by law the Trustee is not obligated to notify any party hereto of pending sale under this Deed of Trust or of any action of proceeding in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee.

26. THE UNDERSIGNED TRUSTOR REQUESTS THAT A COPY OF ANY NOTICE OF DEFAULT AND OF ANY NOTICE OF SALE HEREUNDER BE MAILED TO IT AT 1889 LAWRENCE ROAD, P.O. BOX 397, SANTA CLARA, CALIFORNIA 95052.

27. Trustor agrees at any time and from time to time upon receipt of a written request from Beneficiary, to furnish to Beneficiary detailed statements in writing of income, rents, profits, and operating expenses of the premises, and the names of the occupants and tenants in possession, together with the expiration dates of their leases and full information regarding all rental and occupancy agreements, and the rents provided for by such leases and rental and occupancy agreements, and such other information regarding the premises and their use as may be requested by Beneficiary.

28. Trustor agrees that the loan secured by this Deed of Trust is made expressly for the purpose of facilitating the use of the property as affordable housing as provided in the Loan Agreement.

29. Trustor agrees that, except as otherwise provided herein, upon sale or refinancing of the property, the entire principal balance of the debt secured by this Deed of Trust shall at the option of Beneficiary be immediately due and payable.

30. (a) Subject to the extensions of time set forth in Section 31 failure or delay by Trustor to perform any material term or provision of this Deed of Trust or the Secured Obligations constitutes a default under this Deed of Trust.

(b) Beneficiary shall give written notice of default to Trustor, specifying the default complained of by Beneficiary. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

(c) Any failures or delays by Beneficiary in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by Beneficiary in asserting any of its rights and remedies shall not deprive Beneficiary of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

(d) If a monetary event of default occurs under the terms of this Deed of Trust, prior to exercising any remedies hereunder, Beneficiary shall give Trustor written notice of such default. Trustor shall have a reasonable period of time after such notice is given within which to cure the default prior to exercise of remedies by Beneficiary under this Deed of Trust. In no event shall Beneficiary be precluded from exercising remedies if its security becomes or is about to become materially impaired by any failure to cure a default or the default is not cured within ten (10) calendar days after the notice of default is received or deemed received.

(e) If a non-monetary event of default occurs under the terms of this Deed of Trust, prior to exercising any remedies hereunder, Beneficiary shall give Trustor notice of such default. If the default is reasonably capable of being cured within thirty (30) calendar days after such notice is received or deemed received, Trustor shall have such period to effect a cure prior to exercise of remedies by the Beneficiary under this Deed of Trust. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and District (i) initiates corrective action within said period, and (ii) diligently and in good faith works to effect a cure as soon as possible, then District shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by Beneficiary. In no event shall Beneficiary be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within ninety (90) days after the notice of default is received or deemed received.

(f) If an event of default occurs under the terms of any of the Secured Obligations and is not cured within the applicable cure period set forth therein, prior to exercising any remedies hereunder, Beneficiary shall give Trustor notice of such default. No additional cure period shall be provided herein for such uncured defaults.

(g) Any notice of default that is transmitted by electronic facsimile transmission followed by delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice of default that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt by District; and any notice of default that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof.

31. Notwithstanding specific provisions of this Deed of Trust, non-monetary performance hereunder shall not be deemed to be in default where delays or defaults are due to: war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor or supplier; acts of the other party; acts or failure to act of the City of Santa Clara or any other public or governmental agency or entity (except that any act or failure to act of Beneficiary shall not excuse performance by Beneficiary); or any other causes beyond the reasonable control or without the fault of the party claiming an extension of time to perform. An extension of time for any such cause (a "Force Majeure Delay") shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause. If, however, notice by the party claiming such extension is sent to the other party more than thirty (30) days after the commencement of the cause, the period shall commence to run only thirty (30) days prior to the giving of such notice. Times of performance under this Deed of Trust may also be extended in writing by Beneficiary and Trustor.

32. If the rights and liens created by this Deed of Trust shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the Secured Obligations described herein, the unsecured portion of such Secured Obligations shall be completely performed and paid prior to the performance and payment of the remaining and secured portion of the Secured Obligations, and all performance and payments made by Trustor shall be considered to have been performed and paid on and applied first to the complete payment of the unsecured portion of the Secured Obligations.

33. This Deed of Trust is and shall be senior in priority to all other mortgages and deeds of trust secured by the Property or any portion thereof or interest therein, except to the extent specifically approved in writing by the Beneficiary.

IN WITNESS WHEREOF Trustor has executed this Deed of Trust as of the day and year set forth above.

SANTA CLARA UNIFIED SCHOOL DISTRICT

Date: _____

By: _____

Name: Steve Stavis
Superintendent

State of California

County of _____

On _____ before me, a Notary Public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT "A"

LEGAL DESCRIPTION

REAL PROPERTY SITUATED IN THE CITY OF SANTA CLARA, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

A PORTION OF PARCEL 1, AS SHOWN ON THAT CERTAIN PARCEL MAP FILED JULY 30, 1985 IN BOOK 547 OF MAPS, AT PAGES 1 AND 2 IN THE OFFICE OF SANTA CLARA COUNTY RECORDER, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF THE ABOVE-MENTIONED PARCEL 1 (547 PM 1), SAID POINT ALSO BEING ON THE NORTHERN RIGHT-OF-WAY LINE OF LOCHINVAR AVENUE (60.00 FEET IN WIDTH), AS SAID AVENUE IS SHOWN ON SAID PARCEL MAP (547 PM 1), THENCE FROM SAID POINT OF BEGINNING ALONG THE WESTERN EXTERIOR BOUNDARY LINE OF SAID PARCEL 1 NORTH 00°30'06" WEST 256.34 FEET; THENCE LEAVING THE LAST MENTIONED LINE NORTH 89°57'00" EAST, 365.04 FEET; THENCE SOUTH 00°30'00" EAST, 258.33 FEET TO A POINT ON SAID NORTHERN LINE OF LOCHINVAR AVENUE; THENCE ALONG THE LAST MENTIONED LINE SOUTH 89°57'00" WEST, 363.00 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 94,036 SQ.FT. (2.16 ACRES) MORE OR LESS.

ATTACHMENT NO. 4

SCHEDULE OF PERFORMANCE

1. Execution of Loan Agreement: The Loan Agreement shall be authorized by the Redevelopment Agency Board, executed by the Redevelopment Agency Executive Director and delivered to District. Within thirty (30) days after District executes and delivers signed Agreement to Agency.
2. Scheduled Closing Date: All conditions precedent to the disbursal of the Agency Loan (as set forth in Section 4.4 of the Loan Agreement) shall be satisfied. No later than sixty (60) days following execution of the Loan Agreement.
4. Completion. District shall complete construction of the Project, as required by the Loan Agreement. No later than May 30, 2009.

ATTACHMENT NO. 5
AGREEMENT CONTAINING COVENANTS
(INCLUDING AFFORDABLE HOUSING RESTRICTIONS)
[BEHIND THIS PAGE]

OFFICIAL BUSINESS

Document entitled to free
recording per Government
Code Section 6103

Recording Requested By and
When Recorded Mail To:

THE REDEVELOPMENT AGENCY
OF THE CITY OF SANTA CLARA, CALIFORNIA
1500 Warburton Avenue
Santa Clara, California 95050
Attention: Jennifer Sparacino

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**AGREEMENT CONTAINING COVENANTS
(INCLUDING AFFORDABLE HOUSING RESTRICTIONS)**

THIS AGREEMENT CONTAINING COVENANTS (the "Agreement") is entered into as of _____, 2008, by and between the SANTA CLARA UNIFIED SCHOOL DISTRICT ("District"), and the REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA ("Agency").

WHEREAS, District is the owner of that certain real property (the "Property") in the City of Santa Clara more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, for the purpose, among others, of furthering the Redevelopment Plan for the Bayshore North Redevelopment Project (the "Redevelopment Plan") by providing and increasing affordable housing for persons and families of Low Income, the District and Agency have entered into that certain Loan Agreement dated as of _____, 2008 (the "Loan Agreement"), which is a public document on file in the offices of Agency and incorporated herein by this reference, which provides for the development of the Property with thirty (30) rental housing units, of which twenty (20) units shall be Restricted Units which shall be rented exclusively to otherwise eligible persons and families of Low Income at Affordable Rents. Any capitalized term not defined herein shall have the same meaning as ascribed to it in the Loan Agreement; and

WHEREAS, the parties wish to set forth and record against the Property their agreement relating to the use of the Property.

NOW, THEREFORE, AGENCY AND DISTRICT COVENANT AND AGREE AS FOLLOWS:

1. Use of Property. District covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof, that District, such successors and such assigns shall develop the Project on the Property and operate thirty (30) units of rental housing on the Property (including the twenty (20) Restricted Units), as provided in the Loan Agreement and this Agreement, and devote the Property to the uses specified therefor in the Loan Agreement and this Agreement. During the time in which the use restrictions remain in effect, District shall obtain Agency's prior written approval before substantially modifying any of the Improvements on the Property.

2. Affordable Housing Restrictions. District covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof, that the twenty (20) Restricted Units shall remain available at an Affordable Rent to, and occupied by, Low Income households for the longest feasible time, but not less than fifty-five (55) years from the date the last structure containing any such Restricted Unit receives a final certificate of occupancy from City of Santa Clara ("City"), as more particularly set forth in this Agreement.

a. The Restricted Units shall be selected by District and approved in writing by the Agency Executive Director. Maximum income of tenants eligible to rent the Restricted Units at the time of initial occupancy of such Restricted Unit shall not exceed eighty percent (80%) of the Santa Clara area median income. District shall not charge or collect from any tenant in a Restricted Unit a monthly rent which (together with a reasonable utility allowance) exceeds the product of 1/12 times thirty percent (30%) times sixty percent (60%) of the Santa Clara area median income, adjusted for family size appropriate for the Restricted Unit. Rent increases, which may occur not more frequently than annually, shall not exceed the annual increase, if any, in the Santa Clara area median income, but in no case may rents (plus a reasonable utility allowance for utilities to be paid by tenants) for the Restricted Units exceed the amount derived by the formula described in this paragraph a., above.

b. The area median income, adjusted for family size, shall be based upon the schedules of area median income issued from time to time by the United States Department of Housing and Urban Improvements ("HUD"). Upon request, Agency shall notify the District of the applicable area median income limits.

3. Preference to Relocatees and Teachers.

a. District covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof, that District, such successors and such assigns shall provide preference in the selection of eligible tenants to persons who have been displaced by Agency activities. District and Agency shall cooperate to effectuate this provision prior to the initial renting, or upon occurrence of a vacancy, or the re-renting of any dwelling units.

District acknowledges and agrees that this paragraph is intended to comply with Section 33411.3 of the California Health and Safety Code.

b. It is the intent of the parties hereto that, as to the Restricted Units only, to the extent permitted by law, District provide preference in the selection of eligible tenants to teachers who are employed by District. District covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof, that, together with the Annual Report (defined in Section 4, below), District, such successors and such assigns shall provide written evidence (which shall be subject to the reasonable satisfaction of the Agency Executive Director) that District, such successors and such assigns are meeting this stated intent of this Agreement.

4. Annual Report. District covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof, that District, such successors and such assigns shall submit to Agency an annual report (the "Annual Report") required by California Health and Safety Code Section 33418. The Annual Report shall include for each rental unit the rental rate and the income and family size of the occupants. The income information shall be supplied by the tenant in a certified statement on a form approved by Agency. District shall submit the Annual Report on or before the end of the first calendar quarter of the year following the year covered by the Annual Report. District shall provide for the submission of such information in its leases with tenants.

5. Operation and Maintenance. District covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof, that the District, such successors and such assigns shall operate and maintain the Improvements, including the Restricted Units, in conformity with all applicable laws, keep the Property and such Improvements free from any accumulation of debris or waste materials, and maintain any landscaping in a healthy condition.

6. Qualified Manager. District covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof, that District, such successors and such assigns shall engage the services of a qualified and experienced third-party manager to operate and maintain the Improvements.

7. No Discrimination. District covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof, that there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor shall the transferee itself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the Property.

8. Required Nondiscrimination Clauses. District covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof, that District, its successors and assigns shall refrain from restricting the rental, sale or lease of the Property on the basis of the race, color, creed, religion, sex, sexual orientation, marital status, national origin or ancestry of any person. All deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

a. In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

b. In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."

c. In contracts: "There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor shall the transferee itself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the land."

9. Term of Covenants. The covenants established in this Agreement and any amendments hereto shall, without regard to technical classification and designation, be binding for

the benefit and in favor of the Agency and the City of Santa Clara. The covenants contained in Sections 7 and 8 of this Agreement shall remain in perpetuity. All other covenants contained in this Agreement shall remain in effect for fifty-five (55) years from the date the last structure containing any Restricted Unit receives a final certificate of occupancy from City.

10. Enforcement. Agency and City are deemed to be the beneficiaries of the terms and provisions of this Agreement and the covenants herein, both for and in their own right and for the purposes of protecting the interests of the community and other parties, public or private, for whose benefit this Agreement and the covenants running with the land have been provided. Agency and City shall each have the right if any covenants are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it is entitled.

11. Defaults. (a) Subject to the extensions of time set forth in Section 12, below, failure or delay by District to perform any material term or provision of this Agreement constitutes a default under this Agreement.

(b) Agency shall give written notice of default to District, specifying the default complained of by Agency. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

(c) Any failures or delays by Agency in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by Agency in asserting any of its rights and remedies shall not deprive Agency of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

(d) If a monetary event of default occurs under the terms of this Agreement, prior to exercising any remedies hereunder, Agency shall give District written notice of such default. District shall have a reasonable period of time after such notice is given within which to cure the default prior to exercise of remedies by Agency under this Agreement. In no event shall Agency be precluded from exercising remedies if its security becomes or is about to become materially impaired by any failure to cure a default or the default is not cured within ten (10) calendar days after the notice of default is received or deemed received.

(e) If a non-monetary event of default occurs under the terms of this Agreement, prior to exercising any remedies hereunder, Agency shall give District notice of such default. If the default is reasonably capable of being cured within thirty (30) calendar days after such notice is received or deemed received, District shall have such period to effect a cure prior to exercise of remedies by Agency under this Agreement. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and District (i) initiates corrective action within said period, and (ii) diligently and in good faith works to effect a cure as soon as possible, then District shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by Agency. In no event shall Agency be precluded from exercising remedies if its security becomes

or is about to become materially jeopardized by any failure to cure a default or the default is not cured within ninety (90) days after the notice of default is received or deemed received.

(f) Any notice of default that is transmitted by electronic facsimile transmission followed by delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice of default that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt by District; and any notice of default that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof.

12. Notwithstanding specific provisions of this Agreement, non-monetary performance hereunder shall not be deemed to be in default where delays or defaults are due to: war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor or supplier; acts of the other party; acts or failure to act of the City of Santa Clara or any other public or governmental agency or entity (except that any act or failure to act of Agency shall not excuse performance by Agency); or any other causes beyond the reasonable control or without the fault of the party claiming an extension of time to perform. An extension of time for any such cause (a "Force Majeure Delay") shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause. If, however, notice by the party claiming such extension is sent to the other party more than thirty (30) days after the commencement of the cause, the period shall commence to run only thirty (30) days prior to the giving of such notice. Times of performance under this Agreement may also be extended in writing by Agency and District.

IN WITNESS WHEREOF, the Agency and the District have executed this Agreement.

**REDEVELOPMENT AGENCY
OF THE CITY OF SANTA CLARA,
CALIFORNIA**

Date: _____

By: _____
Jennifer Sparacino
Executive Director

ATTEST:

By: _____
Rod Diridon, JR.
Secretary

APPROVED AS TO FORM:
HELENE LEICHTER,
Agency General Counsel

By: _____

**SANTA CLARA UNIFIED SCHOOL
DISTRICT**

Date: _____

By: _____
Name: Steve Stavis
Superintendent

State of California

County of _____

On _____ before me, a Notary Public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California

County of _____

On _____ before me, a Notary Public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

Exhibit "A"

LEGAL DESCRIPTION

REAL PROPERTY SITUATED IN THE CITY OF SANTA CLARA, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

A PORTION OF PARCEL 1, AS SHOWN ON THAT CERTAIN PARCEL MAP FILED JULY 30, 1985 IN BOOK 547 OF MAPS, AT PAGES 1 AND 2 IN THE OFFICE OF SANTA CLARA COUNTY RECORDER, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF THE ABOVE-MENTIONED PARCEL 1 (547 PM 1), SAID POINT ALSO BEING ON THE NORTHERN RIGHT-OF-WAY LINE OF LOCHINVAR AVENUE (60.00 FEET IN WIDTH), AS SAID AVENUE IS SHOWN ON SAID PARCEL MAP (547 PM 1), THENCE FROM SAID POINT OF BEGINNING ALONG THE WESTERN EXTERIOR BOUNDARY LINE OF SAID PARCEL 1 NORTH 00°30'06" WEST 256.34 FEET; THENCE LEAVING THE LAST MENTIONED LINE NORTH 89°57'00" EAST, 365.04 FEET; THENCE SOUTH 00°30'00" EAST, 258.33 FEET TO A POINT ON SAID NORTHERN LINE OF LOCHINVAR AVENUE; THENCE ALONG THE LAST MENTIONED LINE SOUTH 89°57'00" WEST, 363.00 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 94,036 SQ.FT. (2.16 ACRES) MORE OR LESS.

ATTACHMENT NO. 6

PROJECT BUDGET

SOURCES:

Certificates of Participation Notes (COPS)	\$4,840,000
Agency Loan	\$1,920,933
	<u>\$6,760,933</u>

USES:

Direct Hard Costs	\$4,776,000
Other Hard Costs	\$ 719,000
Total Hard Costs	\$5,495,000
 A & E Reserves	 \$ 525,000
Overhead	\$ 330,000
Contingencies	\$ 210,933
Total Soft Costs	\$1,065,933
 City permits	 \$ 200,000
	<u>\$6,760,933</u>

ATTACHMENT NO. 7

NOTICE OF AFFORDABILITY RESTRICTIONS ON TRANSFER OF PROPERTY

[BEHIND THIS PAGE]

Recording Requested By and
When Recorded Mail To:

THE REDEVELOPMENT AGENCY
OF THE CITY OF SANTA CLARA, CALIFORNIA
1500 Warburton Avenue
Santa Clara, California 95050
Attention: Jennifer Sparacino

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Notice of Affordability Restrictions on Transfer of Property

NOTICE IS HEREBY GIVEN that pursuant to Health & Safety Code Section 33334.3(f)(3), as amended effective January 1, 2008, the Redevelopment Agency of the City of Santa Clara ("Agency") is recording this Notice of Affordability Restrictions on Transfer of Property (hereinafter the "Notice") with regard to the property owned by the Santa Clara Unified School District ("District") which is located at 3445-3465 Lochinvar Avenue, Santa Clara, California, and more particularly described in Exhibit "A" attached hereto (the "Property").

The Property is subject to covenants in a Loan Agreement dated _____, 2008 ("Loan Agreement") and an Agreement Containing Covenants (Including Affordable Housing Restrictions) recorded on or about the date of this Notice ("Covenants") which restrict the use of the Property as follows:

- District must develop thirty (30) units of rental housing on the Property (including twenty (20) "Restricted Units") and devote the Property to the uses specified in the Loan Agreement and the Covenants, as more particularly set forth in the Loan Agreement and the Covenants.
- The twenty (20) Restricted Units must remain available at an Affordable Rent to, and occupied by, Low Income households for the longest feasible time, but not less than fifty-five (55) years from the date the last structure containing any such Restricted Unit receives a final certificate of occupancy from the City of Santa Clara ("City"), as more particularly set forth in the Loan Agreement and the Covenants.

- "Affordable Rent" means rent, plus a reasonable allowance for utilities, in an amount that does not exceed thirty percent (30%) of sixty percent (60%) of the area median income, adjusted for family size appropriate for the unit.
- "Low Income" means a household income that does not exceed eighty percent (80%) of the area median income.

The affordability restrictions imposed on the Property by the Loan Agreement and the Covenants are scheduled to expire fifty-five (55) years from the date the last structure containing any such Restricted Unit receives a final certificate of occupancy from City, as more particularly set forth in the Loan Agreement and the Covenants.

This Notice is recorded for the purpose of providing notice only and it in no way modifies the provisions of the Loan Agreement or the Covenants.

**REDEVELOPMENT AGENCY
OF THE CITY OF SANTA CLARA,
CALIFORNIA**

Date: _____

By: _____
Jennifer Sparacino
Executive Director

ATTEST:

By: _____
Rod Diridon, JR.
Secretary

APPROVED AS TO FORM:
HELENE LEICHTER,
Agency General Counsel

By: _____

Exhibit "A"

REAL PROPERTY SITUATED IN THE CITY OF SANTA CLARA, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

A PORTION OF PARCEL 1, AS SHOWN ON THAT CERTAIN PARCEL MAP FILED JULY 30, 1985 IN BOOK 547 OF MAPS, AT PAGES 1 AND 2 IN THE OFFICE OF SANTA CLARA COUNTY RECORDER, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF THE ABOVE-MENTIONED PARCEL 1 (547 PM 1), SAID POINT ALSO BEING ON THE NORTHERN RIGHT-OF-WAY LINE OF LOCHINVAR AVENUE (60.00 FEET IN WIDTH), AS SAID AVENUE IS SHOWN ON SAID PARCEL MAP (547 PM 1), THENCE FROM SAID POINT OF BEGINNING ALONG THE WESTERN EXTERIOR BOUNDARY LINE OF SAID PARCEL 1 NORTH 00°30'06" WEST 256.34 FEET; THENCE LEAVING THE LAST MENTIONED LINE NORTH 89°57'00" EAST, 365.04 FEET; THENCE SOUTH 00°30'00" EAST, 258.33 FEET TO A POINT ON SAID NORTHERN LINE OF LOCHINVAR AVENUE; THENCE ALONG THE LAST MENTIONED LINE SOUTH 89°57'00" WEST, 363.00 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 94,036 SQ.FT. (2.16 ACRES) MORE OR LESS.

APN: 290-23-088

State of California

County of _____

On _____ before me, a Notary Public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)